

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1305

Introduced by Assembly Member Bonta

February 27, 2015

An act to amend Section 1367.006 of the Health and Safety Code, and to amend Section 10112.28 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 1305, as amended, Bonta. Limitations on cost sharing: family coverage.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014. Among other things, PPACA establishes annual limits on specified forms of cost sharing, including deductibles, on all essential health benefits for nongrandfathered individual and group health insurance coverage.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires, for nongrandfathered products in the individual or small group markets, a health care service plan contract or health insurance policy, except a specialized *health care service plan* or health insurance policy, that is issued, amended, or renewed on or after January 1, 2015, to provide for a limit on annual out-of-pocket expenses for all covered benefits that meet the definition of essential health benefits, and requires the

plan contract or policy, for nongrandfathered products in the large group market, to provide that limit for covered benefits to the extent that the limit does not conflict with federal law or guidance, as specified. Existing law prohibits this limit from exceeding the limit described in a specified provision of federal law.

This bill would require, for family coverage, the above-described limit on annual out-of-pocket expenses to include a maximum out-of-pocket limit for each individual covered by the plan contract or policy that is less than or equal to the maximum out-of-pocket limit for individual coverage under the plan contract or policy. *The bill would require a plan contract or policy for family coverage that includes a deductible, except a high deductible health plan, to include a deductible for each individual covered under the plan contract or policy that is less than or equal to the deductible for individual coverage under the plan contract or policy. The bill would require a plan contract or policy for family coverage that includes a deductible and is a high deductible health plan, as defined in federal law, to include a deductible for each individual covered by the plan contract or policy that is equal to either the amount set forth in a specified federal law or the deductible for individual coverage under the plan contract or policy, whichever is greater.* Because a willful violation of these requirements by a health care service plan would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.006 of the Health and Safety Code
- 2 is amended to read:
- 3 1367.006. (a) This section shall apply to nongrandfathered
- 4 individual and group health care service plan contracts that provide
- 5 coverage for essential health benefits, as defined in Section
- 6 1367.005, and that are issued, amended, or renewed on or after
- 7 January 1, 2015.

1 (b) (1) For nongrandfathered health care service plan contracts
2 in the individual or small group markets, a health care service plan
3 contract, except a specialized health care service plan contract,
4 that is issued, amended, or renewed on or after January 1, 2015,
5 shall provide for a limit on annual out-of-pocket expenses for all
6 covered benefits that meet the definition of essential health benefits
7 in Section 1367.005, including out-of-network emergency care
8 consistent with Section 1371.4.

9 (2) For nongrandfathered health care service plan contracts in
10 the large group market, a health care service plan contract, except
11 a specialized health care service plan contract, that is issued,
12 amended, or renewed on or after January 1, 2015, shall provide
13 for a limit on annual out-of-pocket expenses for covered benefits,
14 including out-of-network emergency care consistent with Section
15 1371.4. This limit shall only apply to essential health benefits, as
16 defined in Section 1367.005, that are covered under the plan to
17 the extent that this provision does not conflict with federal law or
18 guidance on out-of-pocket maximums for nongrandfathered health
19 care service plan contracts in the large group market.

20 (c) (1) The limit described in subdivision (b) shall not exceed
21 the limit described in Section 1302(c) of PPACA, and any
22 subsequent rules, regulations, or guidance issued under that section.

23 (2) The limit described in subdivision (b) shall result in a total
24 maximum out-of-pocket limit for all covered essential health
25 benefits equal to the dollar amounts in effect under Section
26 223(c)(2)(A)(ii) of the Internal Revenue Code of 1986 with the
27 dollar amounts adjusted as specified in Section 1302(c)(1)(B) of
28 PPACA.

29 (3) For family coverage, the limit described in subdivision (b)
30 shall include a maximum out-of-pocket limit for each individual
31 covered by the plan that is less than or equal to the maximum
32 out-of-pocket limit for individual coverage under the plan contract.

33 (d) Nothing in this section shall be construed to affect the
34 reduction in cost sharing for eligible enrollees described in Section
35 1402 of PPACA, and any subsequent rules, regulations, or guidance
36 issued under that section.

37 (e) If an essential health benefit is offered or provided by a
38 specialized health care service plan, the total annual out-of-pocket
39 maximum for all covered essential benefits shall not exceed the
40 limit in subdivision (b). This section shall not apply to a specialized

1 health care service plan that does not offer an essential health
2 benefit as defined in Section 1367.005.

3 (f) The maximum out-of-pocket limit shall apply to any
4 copayment, coinsurance, deductible, and any other form of cost
5 sharing for all covered benefits that meet the definition of essential
6 health benefits in Section 1367.005.

7 (g) ~~If (1)~~ *Except as provided in paragraph (2), if a health care*
8 *service plan contract for family coverage includes a deductible,*
9 *the plan contract shall include a deductible for each individual*
10 *covered by the plan that is less than or equal to the deductible for*
11 *individual coverage under the plan contract.*

12 *(2) If a health care service plan contract for family coverage*
13 *includes a deductible and is a high deductible health plan under*
14 *the definition set forth in Section 223(c)(2) of Title 26 of the United*
15 *States Code, the plan contract shall include a deductible for each*
16 *individual covered by the plan that is equal to either the amount*
17 *set forth in Section 223(c)(2)(A)(i)(II) of Title 26 of the United*
18 *States Code or the deductible for individual coverage under the*
19 *plan contract, whichever is greater.*

20 (h) For nongrandfathered health plan contracts in the group
21 market, “plan year” has the meaning set forth in Section 144.103
22 of Title 45 of the Code of Federal Regulations. For
23 nongrandfathered health plan contracts sold in the individual
24 market, “plan year” means the calendar year.

25 (i) “PPACA” means the federal Patient Protection and
26 Affordable Care Act (Public Law 111-148), as amended by the
27 federal Health Care and Education Reconciliation Act of 2010
28 (Public Law 111-152), and any rules, regulations, or guidance
29 issued thereunder.

30 SEC. 2. Section 10112.28 of the Insurance Code is amended
31 to read:

32 10112.28. (a) This section shall apply to nongrandfathered
33 individual and group health insurance policies that provide
34 coverage for essential health benefits, as defined in Section
35 10112.27, and that are issued, amended, or renewed on or after
36 January 1, 2015.

37 (b) (1) For nongrandfathered health insurance policies in the
38 individual or small group markets, a health insurance policy, except
39 a specialized health insurance policy, that is issued, amended, or
40 renewed on or after January 1, 2015, shall provide for a limit on

1 annual out-of-pocket expenses for all covered benefits that meet
2 the definition of essential health benefits in Section 10112.27,
3 including out-of-network emergency care.

4 (2) For nongrandfathered health insurance policies in the large
5 group market, a health insurance policy, except a specialized health
6 insurance policy, that is issued, amended, or renewed on or after
7 January 1, 2015, shall provide for a limit on annual out-of-pocket
8 expenses for covered benefits, including out-of-network emergency
9 care. This limit shall apply only to essential health benefits, as
10 defined in Section 10112.27, that are covered under the policy to
11 the extent that this provision does not conflict with federal law or
12 guidance on out-of-pocket maximums for nongrandfathered health
13 insurance policies in the large group market.

14 (c) (1) The limit described in subdivision (b) shall not exceed
15 the limit described in Section 1302(c) of PPACA and any
16 subsequent rules, regulations, or guidance issued under that section.

17 (2) The limit described in subdivision (b) shall result in a total
18 maximum out-of-pocket limit for all covered essential health
19 benefits that shall equal the dollar amounts in effect under Section
20 223(c)(2)(A)(ii) of the Internal Revenue Code of 1986 with the
21 dollar amounts adjusted as specified in Section 1302(c)(1)(B) of
22 PPACA.

23 (3) For family coverage, the limit described in subdivision (b)
24 shall include a maximum out-of-pocket limit for each individual
25 covered by the policy that is less than or equal to the maximum
26 out-of-pocket limit for individual coverage under the policy.

27 (d) Nothing in this section shall be construed to affect the
28 reduction in cost sharing for eligible insureds described in Section
29 1402 of PPACA and any subsequent rules, regulations, or guidance
30 issued under that section.

31 (e) If an essential health benefit is offered or provided by a
32 specialized health insurance policy, the total annual out-of-pocket
33 maximum for all covered essential benefits shall not exceed the
34 limit in subdivision (b). This section shall not apply to a specialized
35 health insurance policy that does not offer an essential health
36 benefit as defined in Section 10112.27.

37 (f) The maximum out-of-pocket limit shall apply to any
38 copayment, coinsurance, deductible, and any other form of cost
39 sharing for all covered benefits that meet the definition of essential
40 health benefits, as defined in Section 10112.27.

1 (g) ~~If~~(1) *Except as provided in paragraph (2), if a health*
2 *insurance policy for family coverage includes a deductible, the*
3 *policy shall include a deductible for each individual covered under*
4 *the policy that is less than or equal to the deductible for individual*
5 *coverage under the policy.*

6 (2) *If a health insurance policy for family coverage includes a*
7 *deductible and is a high deductible health plan under the definition*
8 *set forth in Section 223(c)(2) of Title 26 of the United States Code,*
9 *the policy shall include a deductible for each individual covered*
10 *by the policy that is equal to either the amount set forth in Section*
11 *223(c)(2)(A)(i)(II) of Title 26 of the United States Code or the*
12 *deductible for individual coverage under the policy, whichever is*
13 *greater.*

14 (h) For nongrandfathered health insurance policies in the group
15 market, “policy year” has the meaning set forth in Section 144.103
16 of Title 45 of the Code of Federal Regulations. For
17 nongrandfathered health insurance policies sold in the individual
18 market, “policy year” means the calendar year.

19 (i) “PPACA” means the federal Patient Protection and
20 Affordable Care Act (Public Law 111-148), as amended by the
21 federal Health Care and Education Reconciliation Act of 2010
22 (Public Law 111-152), and any rules, regulations, or guidance
23 issued thereunder.

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.